

9 FAM Appendix G, 100 CONSULAR DUTIES

(TL:VISA-400; 04-24-2002)

9 FAM 101 CONSULAR OFFICERS' RESPONSIBILITY

(TL:VISA-400; 04-24-2002)

The consular officer is responsible for conducting as complete a clearance as is necessary to establish the eligibility of the applicant to receive a visa. This responsibility includes:

- a. Checking the Consular Lookout and Support System (CLASS) and other appropriate post records in all cases [See 9 FAM Appendix G, 200];
- b. Completing clearance procedures with other posts when indicated [See 9 FAM Appendix G, 300];
- c. Requesting Washington agency name checks or security advisory opinions (SAOs) from the Department when required [See 9 FAM Appendix G, 400 and 9 FAM Appendix G, 500]; and
- d. In certain cases, submitting the original visa application (Form *DS-156, Nonimmigrant Visa Application*), or a copy thereof, to the FBI [See 9 FAM Appendix F, 600].

9 FAM 101.1 Visa Lookout Accountability (VLA)

(TL:VISA-400; 04-24-2002)

a. *Visa Lookout Accountability (VLA) is a permanent on-going requirement with which all visa-issuing officers must comply. Officers must properly resolve valid hits before visa issuance.*

b. *Section 140(c) of Pub. L. 103-236 (Foreign Relations Authorization Act, FY-94 and 95, as amended) which became effective April 30, 1996, states the following:*

c. *Processing of visas for admission to the United States—*

(1) Whenever a United States consular officer issues a visa for admission to the United States, that official shall certify, in writing, that a check of the automated visa lookout system, or any other system or list which maintains information about the excludability of aliens under the Immigration and Nationality Act, has been made, and that there is no basis under such system for the exclusion of such alien.

(2) If, at the time an alien applies for an immigrant or nonimmigrant visa, the alien's name is included in the Department of States visa lookout system and the consular officer to whom the application is made fails to follow the procedures in processing the application required by the inclusion of the alien's name in such system, the consular officer's failure shall be made a matter of record and shall be considered as a serious negative factor in the officer's annual performance evaluation.

(3) If an alien, to whom a visa was issued as a result of a failure described in (1)(b) is admitted to the United States, and there is, thereafter, probable cause to believe that the alien was a participant in a terrorist act causing serious injury, loss of life or significant destruction of property in the United States, the Secretary of State shall convene an accountability review board under the authority of Title III of the Omnibus Diplomatic Security and Antiterrorism Act of 1986.

9 FAM 101.1-1 Meeting the VLA Requirement

(TL:VISA-185; 02-26-1999)

Under Section 140(c), whenever a consular officer issues a visa, he or she must certify, in writing, that a lookout check has been made and there is no basis for exclusion. The following explains VLA procedures and the provisions for retention of Consular Lookout and Support System (CLASS) records and VLA certifications via paper files and/or archived Machine Readable Visas (MRV) and Immigrant Visas Automated Control System (IVACS) records.

9 FAM 101.1-2 Issuer vs. Adjudicator

(TL:VISA-185; 02-26-1999)

Section 140(c) speaks in terms of the consular officer who "issues" a visa. For the purposes of VLA, the officer who checks the lookouts and authorizes the printing of the visa is the "issuing" officer. The officer who examines the application and makes the preliminary decision to issue or deny a visa is the "adjudicating" officer. At many posts, the adjudicating officer may not be the same person as the issuing officer.

9 FAM 101.1-3 Who May Authorize Printing of Visas

(TL:VISA-400; 04-24-2002)

Only Consular Officers and those Consular Associates and Professional Associates (including Fascell Fellows and Foreign Language Fellows) who have been designated as consular officers for visa purposes (COVP) by CA/EX are permitted to make a VLA certification and authorize printing of visas. Posts are reminded that although COVP status can be granted only to American citizens who have successfully completed the basic consular course, the mere fact of completion of the course does not, in itself, confer

COVP status on any individual. Such status must be explicitly conferred by CA/EX. Posts are also reminded that officers who do not hold a consular title at post are not authorized to adjudicate or authorize printing of visas. Consular assistants are not permitted to authorize the printing of visas under any circumstances. Officers who do not hold a consular title at post are not authorized to either adjudicate or print visas.

9 FAM 101.1-4 VLA Procedures

(TL:VISA-185; 02-26-1999)

a. The Department understands Section 140(c) to mandate a check of the Department's Visa Lookout System (CLASS or DNC) before a visa can be issued. The CLASS/DNC system also includes lookouts provided by other agencies to which officers must give the same consideration as Department-originated CAT I hits. The process described below focuses on serious, Category I ("CAT I") inadmissibilities. While the implications of the Section 140(c) requirement to certify that there is "no basis" under the lookout system for the exclusion of the alien are ambiguous, it is clear that this requires checking and resolving all CAT I hits before the certification is made and a visa can be issued. Thus, the MRV and IV systems have been programmed to ensure that no visa can be printed until an officer has checked the CAT I hits, and documents the reason a visa will be issued (waiver, SAO response, not same person, etc.).

b. Whether the statute reaches CAT II hits is less clear. While a CAT II hit may provide an officer with information that could lead to a finding of inadmissibility, CAT II hits reflect prior decisions that may or may not be relevant or binding on the officer handling the new application. Thus, these hits, without further inquiry, do not provide a basis for refusal. Moreover, CAT II hits do not indicate the kinds of security-related bases for refusal that were the focus of Congressional concern in enacting Section 140(c). MRV and IV applications, therefore, have not been programmed to require that an officer check all CAT II hits before a visa may be printed, and issuing officers are permitted to certify that there is "no basis under (the lookout system) for the exclusion" of the applicant without documenting the reason for issuance in the system for every CAT II hit. However, all CAT II hits should be reviewed and resolved before issuance. Thus, the issuing officer should not authorize any case for printing unless he or she can confirm that the lookout system was, in fact checked, and that all CAT I and CAT II hits were handled appropriately.

9 FAM 101.1-5 Compliance With VLA Requirement Implemented

(TL:VISA-185; 02-26-1999)

In general, compliance with the VLA requirement has been implemented by adding a VLA module to MRV and IV software. The revised software requires an officer, when checking a case's lookouts, to view any CAT I hits before being allowed to authorize the visa for printing. The officer responds to an on-screen prompt with a reason for overcoming the CAT I hit. As in the past, the act of authorizing the visa for printing signifies the officer's determination that no relevant hits were found. This record, along with the name of the officer who authorized the visa for printing, is retained in the MRV case history file and constitutes the written certification for VLA purposes. All issuing officers at post should be apprised that they will be considered to have made the Section 140(c) certification when they authorize MRV or IV printing. VLA does not affect refusals.

9 FAM 101.1-6 Procedures to Document Compliance

(TL:VISA-400; 04-24-2002)

Post procedures to document compliance will depend on what version of the NIV and IV software is in use. The following briefly explains what each of the current versions of NIV and IV systems does to document compliance with VLA requirements, and identifies the interim measures posts without VLA modules will need to take.

(1) Nonimmigrant Visas. The full VLA module works in the following manner: Before a visa can be authorized for printing, an officer must:

- (a) View each screen showing any CAT I hits, and
- (b) Choose one or more comments from a list of standardized comments to explain why the visa is being issued despite the hit(s).
- (c) The system then stores a record of the CAT I hits, the name of the officer authorizing issuance, and the officer's comments. The entire record is archived by post and will be retained for a minimum of 11 years. Posts with the VLA module do not need to retain Form OF-156 beyond the current one-year retention requirement.

(2) Posts Without a VLA Feature

(a) Posts without MRV or IV with a VLA feature should make a printout of all CLASS or DNC name-check results. The printouts should be divided by batch. Any given printout (batch) could include cases with no record (NR), CAT I and/or CAT II hits. The issuing officer should annotate any CAT I hits on the printout with a brief explanation of why the hits are irrelevant. For most cases with multiple CAT I hits, only one comment will be necessary (i.e., “not the same person”, “INS waiver obtained”, “SAO per State (cable no)”, etc.). NR and CAT II hits do not require separate annotations. Each page of the printout should then be rubber stamped with a VLA certification which contains the following language:

“I certify that a check of the Department’s visa lookout system has been made and there is no basis under this system for the exclusion of these aliens.”

(b) The issuing officer’s name stamp should also be applied and initialed. All Forms *DS-156, Nonimmigrant Visa Application* and the CLASS/DNC printout must be retained at the post for 11 years. It is not necessary to “cut and paste” printouts with the individual Form *DS-156*. However, the daily printouts and Form *DS-156s* should be stored together for easy retrieval. After posts convert to the VLA module, the VLA record retention will be done electronically, and the Form *DS-156* should be retained only for the standard one-year period.

9 FAM 101.1-7 VLA Certifications to be Recorded on Printout When VLA Feature is Missing

(*TL:VISA-400; 04-24-2002*)

a. Previous guidance treated CAT I and non-CAT I hits separately, requiring certification to be printed on the printout of lookout results for CAT I hits and on the Form *DS-156, Nonimmigrant Visa Application* for NR or CAT II hits. For posts operating on a system which does not contain the VLA feature, all VLA certifications should be recorded on the printout and not on the Form *DS-156*. However, the Form *DS-156* must be retained with the printout in all cases.

b. The purpose of retaining VLA records is twofold. The certification shows that an officer has reviewed all CAT I hits and found no ineligibilities. The printout also shows the lookout results available to the certifying officer at the time of issuance. Maintaining this data even for cases involving no CAT I hits will be useful if questions subsequently arise, e.g., if CAT I data on the applicant is later entered into the system. By applying the certification to the printout in all cases, the VLA record is uniformly kept in one document.

9 FAM 101.1-8 Posts to Stamp Each Page of Printout

(TL:VISA-185; 02-26-1999)

Posts are now required to stamp each page of the printout. Whereas previous guidance required a certification stamp for each case with CAT I hits, this step allows officers to apply only one stamp per page. It does not, however, remove the requirement that an officer annotate every case that has a CAT I hit. Stamping each page of the printout minimizes the possibility of cases with CAT I hits being inadvertently overlooked. Additionally, it ensures that the certification stamp will always be visible and easily found on the same page as the case(s) to which it relates. This will make it easier for the Department to document that the required certification was made should questions ever arise. This step does require modification of the certification stamp language, however, in order to include all cases listed on the page. Until a post has received new stamps, pen and ink changes to the existing certification must be made.

9 FAM 101.1-9 Retention of Automated Files

(TL:VISA-185; 02-26-1999)

VLA records are to be maintained for 11 years after issuance. NIV posts are advised not to delete any automated NIV files that are used for Visa Lookout Accountability. Questions regarding file retention should be addressed to CA/EX/CSD.

9 FAM 101.2 Immigrant Visas (Except DV)

(TL:VISA-185; 02-26-1999)

a. All IV Posts

The FBI NCIC check is not considered to be a lookout system within the meaning of Section 140(c), although FBI data on specific cases is sometimes reflected in the CLASS system as a "00" or other CAT I hit. Nevertheless, when Department procedures require an NCIC check, whether as a matter of policy or because it is mandated by statute, FBI NCIC "A1" (adverse) name-checks should be treated the same as a CLASS CAT I hit for VLA purposes and an officer must personally review the checks.

b. IVACS Posts

IVACS posts received the IVACS VLA module and instructions in December 1966 which require an officer to review all CAT I hits and make a VLA statement explaining why the issuance is being authorized, despite the hit(s). A record of the CAT I hits and the officer's comments are stored electronically. The entire record is archived by post and retained for a minimum of 11 years. IVACS posts do not need to include a printout of lookout results in the issued visa packets. Questions regarding IVACS file retention should be directed to CA/EX/CSD.

c. Non-IVACS Posts (excluding modernized IV posts)

Non-IVACS posts should make a printout of each case's name check results. If there are CAT I hits, an officer must note very briefly on the printout why the hits are irrelevant, rubber-stamp the printout with the VLA certification ("I certify that a check of the Department's visa lookout system has been made and there is no basis under this system for the exclusion of the alien"), apply his/her name stamp and initials and staple the printout to the application. The application, with VLA certification, should be placed in the IV envelope for eventual inclusion in the INS "A" file for long-term storage.

d. IV (DV) Cases:

The IV (DV) program has a VLA feature. If a post is unable to use this feature, it should use the non-IVACS case procedures. The modernized IV program includes DV processing with a VLA module.

9 FAM 101.2-1 CLASS vs. DNC – IV and NIV

(TL:VISA-185; 02-26-1999)

a. When CLASS is available, posts must perform name checks on the CLASS system. When CLASS is temporarily down, DNC name checks suffice for VLA purposes. Posts should maintain clear records of dates DNC was used and note the DNC release date. The release date will help to establish whether hit information was available to the consular officer or COVP at the time of visa issuance. That information should be retained at post for 11 years after visa issuance. (The modernized consular systems record this information automatically.)

b. If the TC connection to CLASS goes down, the NIV unit often notices first because NIV cases show a “D” or “DEF” in the CLASS column in Wang VS systems. The PC-LAN MRV system and modernized system will automatically switch to DNC when the TC line is not operational. The VS-MRV system does not switch to DNC unless the systems office manually switches it, generally upon request of, and with the cooperation of, the visa unit. The “D” or “DEF” entry indicates that a complete check has not been done and visas should not be issued over that entry. Visa officers and supervisors should NOT override a “D” or “DEF” entry; instead, he or she should run the name again against DNC, or wait for the CLASS response whenever the TC line goes back up.

9 FAM 101.3 Microfiche No Longer Authorized

(TL:VISA-185; 02-26-1999)

Since all posts now have access to CLASS with DNC as a backup, the use of microfiche for name checks is no longer authorized. Microfiche name checks do not meet the requirements of VLA. Any remaining microfiches at post should be disposed of or destroyed.

9 FAM 101.4 Visa Annotations – NIV and IV

(TL:VISA-185; 02-26-1999)

If CLASS or DNC displays a CAT I hit with the same, or a name similar to the applicant’s name, but the post determines it is not the same person, the visa should be annotated “not the same as CLASS entry.” Waivers granted by INS must also be annotated on the visa. If the post submits an AO or SAO and the Department determines that the applicant is either not identifiable with the “hit” or authorizes the post to issue a visa under an applicable law and regulations, post should annotate the visa, citing the cable number. For example: “visa issued pursuant to 97 State (cable no.)”.

9 FAM 101.5 U.S. PITs to Check/Authorize Printing of Visas

9 FAM 101.5-1 COVPs

(TL:VISA-185; 02-26-1999)

PITs designated as consular officers for visa purposes (COVP) are considered consular officers for VLA purposes and may make a VLA certification. COVPs will either be in Professional Associate or Consular Associate positions. COVP designation can only be accorded by CA/EX. Although COVP designation can be granted only to U.S. citizens who have successfully completed the basic consular course, the mere fact of completion of the consular course does not, in itself, confer COVP status on any individual.

9 FAM 101.5-2 AFM or American Clerical PITs Who Have Not Been Designated COVPs

(TL:VISA-185; 02-26-1999)

Posts may, when necessary, request authorization from the Department to allow non-COVP U.S. citizen PITs and AFMs to print-authorize visas after checking the system and confirming that there are no CAT I hits. (Any case with CAT I hits must be passed to the adjudicating consular officer or COVP for issuance.) This should be done only when required by workload and personnel considerations. Moreover, when U.S. citizen clerical PITs or AFMs are given this authority, posts must establish procedures and sufficiently rigorous supervisory oversight to permit the consular officer or COVP responsible for adjudication and issuance of the visa to make the required certification that the system was checked and provided no basis for exclusion. When requesting approval for PITs to authorize printing, posts should provide a justification for using PITs for this function, as well as an explanation of oversight procedures to ensure compliance with VLA. The Department will provide additional guidance on procedures, oversight and supervisory responsibilities to all posts authorized to use PITs for this function.

9 FAM 101.6 Supervisor's Duties

(TL:VISA-185; 02-26-1999)

a. The consular section chief must submit a cabled statement to the Department (CA/VO/F/P) that he or she has reviewed the section's VLA procedures and that they are in compliance with the Department's instructions. The cable must provide the name of the section chief. It is a permanent obligation of each section chief to submit such a statement to the Department within 45 days of arriving at post.

b. Supervisors are responsible for ensuring that all issuing officers and COVPs fully understand the VLA provisions and requirements, as well as the consequences for failure to comply with VLA procedures. VLA training should be provided to all current issuing officers at post as well as to all future line officers before they assume issuing responsibilities.

c. To ensure compliance with Section 140(c)(1)(B), officers responsible for spot-checking issued visas should also confirm that issuing officers have complied with VLA requirements, i.e. that they are checking the lookout system, issuing visas only in compliance with procedures for handling CAT I hits, and are certifying the performance of these duties. A supervisor can most easily spot check a consular officer's VLA checks by accessing some MRV cases with CAT I hits and verifying that the CAT I hits were handled appropriately. The consular section chief should determine the frequency and number of spot checks.

9 FAM 101.7 Instructions for Forwarding VLA Paper Records to Department

9 FAM 101.7-1 Packaging

(TL:VISA-400; 04-24-2002)

a. Posts are not required to physically attach name-check printouts to corresponding *DS-156, Nonimmigrant Visa Application* forms. However, when packaging the records, post should ensure that name-check printouts are placed in the same box as corresponding *DS-156* forms.

b. VLA records are to be placed into boxes in chronological order, based on the date of visa issuance. The boxes are to be numbered to reflect chronological continuity. For example, box number one might contain records for visas issued from May 1 through May 15; box number two might include records for visas issued from May 16 through May 31, etc. The range of dates covered by each box will vary depending on the workload of each post. Questions regarding the packaging of VLA paper records should be addressed to CA/VO/F/P; Tel. (202) 663-1163; FAX (202) 663-3897.

9 FAM 101.7-2 Inventory and Shipment

(TL:VISA-400; 04-24-2002)

a. Posts must complete a Form DS-693B, *Retirement of Records*, to accompany each shipment. The Form DS-693B should include a complete inventory, consisting of a description of the forms and the dates covered for each box. For example, the inventory for box number one would read Form *DS-156, Nonimmigrant Visa Application* and name-check print-outs for visas issued May 1 through May 15, 1996 at (name of post).

b. Posts should place one printed and one electronic (computer diskette) copy of the DS-693B form in the first box of each shipment. Each box should be numbered consecutively on the lower right hand corner of the box: e.g., 1/5, 2/5, etc. Posts should notify IPS/CR/RSC and CA/VO/F/P of the shipment by telegram, identifying the types of records, date of shipment, pouch registry numbers, and volume.

c. VLA paper records should be addressed to:

Office of IRM Programs and Services
Records Service Center (IPS/CR/RSC)
Department of State, Washington, D.C. 20520

Questions regarding inventory and shipping requirements should be addressed to IPS/PP; Tel (202) 647-5045; FAX (202) 647-5094.

9 FAM 102 DEFINITIONS

(TL:VISA-272; 05-09-2001)

The following terms are used in connection with visa clearances:

a. "Clearance" means the process of obtaining information pertaining to an applicant's visa eligibility from records available to the Department (through Washington agency name check and security advisory opinion requests) or at Foreign Service posts (through checks of post records and/or outside sources).

b. The "Commonwealth of Independent States (CIS)" is composed of the following countries: Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan. It does not include the Baltic countries of Estonia, Latvia, and Lithuania.

c. "Communist and Communist Controlled Countries" are currently considered to be China (People's Republic of), Cuba, Laos, North Korea, and Vietnam.

d. The "Consular Lookout and Support System (CLASS)", which replaced the "Automated Visa Lookout System (AVLOS)", consists of the computerized name search system which is connected to the Department's central name check files or the Distributed Name check System (DNC) which is used as a backup.

e. "Name Check" or "Washington Agency Name Check" means a search of the records of other USG agencies upon a request to the Department by a consular officer. Washington agency name checks, when required, must be conducted in addition to, and not in lieu of, the mandatory checks of CLASS.

f. "Port of Entry (POE)" means the place at which an alien is inspected by the Immigration and Naturalization Service to determine his or her eligibility for entry into the United States.

g. "Postcheck" or "Postclearance" means that checks of appropriate information sources, other than the mandatory check of CLASS, are conducted after visa issuance. No immigrant visa case or case requiring a security advisory opinion may be processed on a postcheck basis.

h. "Post Records" means the Consular Lookout and Support System (CLASS), other records of the consular section, and information from the political section, economic section, and any other USG agency at post which may be available to the consular officer.

i. "Precheck" or "Preclearance" means that all appropriate sources of information are checked prior to visa issuance.

j. "Proscribed Organization" means any group which falls within the purview of INA 212(a)(3)(D). A member or affiliate of a proscribed organization is ineligible for an immigrant visa unless he or she qualifies for relief.

k. "Residence" means a person's place of general abode; i. e., his or her principal, actual dwelling place in fact, without regard to intent.

l. "Security Advisory Opinion (SAO)" means the Department's advice on the security aspects of any visa case submitted by a consular officer. The processing of security advisory opinions includes the completion of Washington agency name checks.

m. "Sources of Information" for clearance purposes include the following:

- (1) Post records;
- (2) Local police and security authorities;
- (3) The records of other Foreign Service posts;
- (4) The investigative resources of the Department (name checks and SAOs);
- (5) Supervisory diplomatic and consular officers in the country of application;
- (6) Diplomatic and consular officers of other countries; and
- (7) Any other resources available to the consular officer.

9 FAM 103 OTHER AVAILABLE GUIDANCE

9 FAM 103.1 Related Sources of Guidance

(TL:VISA-272; 05-09-2001)

Consular officers should consider the clearance procedures discussed in this Appendix in conjunction with the relevant portions of 9 FAM, Appendix D, 200 and the examples of clearance telegrams found in 9 FAM, Appendix E, 200.

9 FAM 103.2 Country-Specific "Special Clearance and Issuance Procedures" are on the Intranet and Internet

(TL:VISA-400; 04-24-2002)

The Visa Reciprocity and Country Documents Finder contains specific information on the special clearance requirements for nationals of each country. The Intranet version is posted at 9 FAM Part IV Appendix C, and is also located at <http://intranet.ca.state.gov/ReciprocityWeb/index.htm>. The Internet version can be found at <http://travel.state.gov/visas/reciprocity/index.htm>. These country-specific instructions supplement, and must be used with, the general clearance guidance found here. Consular officers should be familiar with any special clearance requirements affecting nationals of their host country, and should consult the appropriate country listing for third-country applicants prior to visa issuance.

9 FAM 104 CLASS ENTRIES BY CONSULAR POSTS

9 FAM 104.1 Posts Usually Responsible for Entering Ineligible Aliens

(TL:VISA-272; 05-09-2001)

It is vital to the clearance process that all visa issuing posts enter into CLASS the names, dates and places of birth, and refusal or lookout codes of most aliens found, or believed to be, ineligible for visas. These entries, when required, should be made directly by on-line posts, and through CLOK telegrams by posts using the visa lookout microfiche.

9 FAM 104.2 Exception in Certain Security Advisory Opinion Cases

(TL:VISA-272; 05-09-2001)

As an exception to the policy stated above, the Department will directly enter into CLASS the names of all visa applicants on whom it has rendered a security advisory opinion determining that information available on the applicant is sufficient for a finding of ineligibility under INA 212(a)(3). The appropriate refusal code and the post's country code will be used when making such entries. The reason for this exception is to avoid any delay in watchlisting aliens who are excludable for security reasons. In such cases, the post need not reenter the alien's name at the time the consular officer formally denies the visa unless it wishes to do so for internal record-keeping purposes.

9 FAM 105 EVALUATION OF INTELLIGENCE INFORMATION

9 FAM 105.1 Assessment of Information and Source

(TL:VISA-272; 05-09-2001)

When information of a security nature, obtained from any source, is to be furnished to another consular post or to the Department, the consular officer shall provide the receiving office with an evaluation of both the credibility and applicability of the information and the reliability of the source.

9 FAM 105.2 Evaluation of Organizational Membership

(TL:VISA-272; 05-09-2001)

When information is provided to another post or to the Department about an applicant's membership in, or affiliation with, an organization which may be unknown to the recipient, the consular officer shall indicate whether the organization falls within the purview of INA 212(a)(3)(D). The officer should also advise the requesting post if the alien's organizational membership or affiliation, although not proscribed, should invite special scrutiny (e.g., an organization involved in terrorist activity). Finally, the consular officer shall assess, if possible, whether the nature of the applicant's membership or affiliation may render him or her ineligible for a visa.

9 FAM 106 U.S. POLICE CLEARANCES

(TL:VISA-272; 05-09-2001)

a. In response to recent legislation (Pub. L. 103-236 and Pub. L. 103-317), the Department is implementing two pilot programs in which immigrant visa applicants will be checked for criminal records. One program requires the National Visa Center to clear immigrant visa applicants over the age of 16 through the Interstate Identification Index (III) of the National Crime Information Center (NCIC) and to obtain criminal records identified there from the FBI. The second program institutes, in the ten countries having the highest volume of U.S. immigrant visas issued, the fingerprinting of immigrant visa applicants over 16 years of age for submission to the FBI.

b. Apart from these pilot programs, checks of the FBI's criminal records for aliens are considered unavailable. Consular officers may ask visa applicants to obtain clearances from police authorities in local jurisdictions, however, if the officer has reason to believe that the alien has engaged in criminal activity and may have a police record in that jurisdiction.

9 FAM 107 CLEARING IMMIGRANT VISA APPLICANTS

(TL:VISA-272; 05-09-2001)

Consular posts must initiate necessary clearances at the earliest possible time for immigrant visa applicants who are either not subject to numerical limitations or are subject to a numerical limitation for which visa numbers are currently available. Posts should request clearances for applicants chargeable to a numerical limitation for which numbers are not currently available as soon as the applicant's priority date is within the qualifying date given in the latest Visa Bulletin. This will correspond to the time the file is shipped to the consular post by the National Visa Center.

9 FAM 108 CLEARANCE PROCEDURES FOR REFUGEES

(TL:VISA-272; 05-09-2001)

As a general rule, applicants for refugee status are subject to the same clearance procedures as those required for immigrant visa applicants [Also, see 9 FAM Appendix O, 609].